

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 360 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

VANKAR RAMANBHAI NAGARBHAI (MAKWANA)

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Revision Application No. 360 of 2001
MR US BRAHMBHATT for Petitioner No. 1
Mr B D Desai, APP for Respondent No. 1
MR HARSHAD J SHAH for Respondent No. 2
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CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 07/02/2002

ORAL JUDGEMENT

The petitioner herein was the original informant in Special Atrocity Case No.3 of 2000 before the learned Special Judge at Mehsana. In fact, he had filed a FIR

before the concerned police station for offence punishable under section 3(1)(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 as well as for offence punishable under sections 504 and 506 (2) of IPC stating that the contesting respondent no.2 had given abuses to him and had insulted him with respect to his community on 25.5.1996 at about 13.00 hours in his chamber and committed the aforesaid offence. It was his case that the contesting respondent was the original accused in the case and he was General Manager of Visnagar Spinning Mills and there was some dispute about closure of a department and termination of service of the petitioner and, therefore, the aforesaid incident took place. On receipt of the aforesaid FIR, investigation was entered into and charge sheet was filed and ultimately the case was conducted against the contesting respondent which resulted in acquittal of the contesting respondent. Learned Special Judge pronounced judgment on 1.6.2001 acquitting the contesting respondent from all offences with which he stood charged. Feeling aggrieved by the said judgment and acquittal order, the petitioner has preferred this revision before this court under Section 397 read with section 401 of Criminal Procedure Code, 1973 (for short, 'the Code') and in response to the service of rule, Mr B D Desai, learned APP appears for the State and Mr J G Shah, learned Advocate appears for respondent no.2.

2. I have heard the learned Advocates for the parties and have perused the papers. In fact, learned Advocate for the petitioner has taken me through the relevant materials including the judgment and evidence produced before the trial court.

3. The learned trial Judge has recorded finding that there is no material on record to show that the petitioner belongs to SC or ST. He has observed that a certificate to that effect has not been produced on record and there is no further material to show the community to which the petitioner belongs.

4. Learned Advocate for the petitioner herein has taken me through the judgment and oral evidence of the witness. However, he was not able to point out any evidence from the record to show that the petitioner belongs to the said Community. It is an admitted position that necessary certificate obtained from the concerned Mamlatdar has not been brought on record and even the petitioner had not deposed before the trial court that he belonged to SC or ST community. Therefore,

there was no direct material before the trial court to hold that the petitioner belongs to SC or ST community.

5. Learned Advocate for the petitioner has argued at length that the petitioner was in service of the said mills for a long time. That in fact he rendered service for more than 15 years. That the contesting respondent was working as General Manager and, therefore, the contesting respondent was expected to know about the caste of the petitioner. It is further contended that the petitioner was a Union leader and, therefore, in that capacity, he had occasion to meet the contesting respondent and, therefore, the contesting respondent was aware about the caste of the petitioner.

6. Now simply because the petitioner had rendered more than 15 years of service in the said mills and merely because the contesting respondent was General Manager of the said Mills, it is difficult to infer that the contesting respondent knew that the petitioner belonged to SC or ST. Even otherwise, there was no material before the trial court to come to a finding that the petitioner belongs to SC or ST. In absence of any material on record, it is difficult to make inference against the contesting respondent and in favour of the petitioner. The case conducted before the trial court was a criminal trial. Nothing can be said to be admitted by the accused persons unless it is admitted in so many terms. No such admission of contesting respondent has been found from the record of the trial court. Therefore, the trial court was perfectly justified in coming to a finding of fact that there was no material to show that the petitioner belongs to SC or ST. This is a finding of fact and unless it is found that the finding of fact recorded by the trial court is illegal or perverse, it would not be open for this court to take a view different from the view taken by the trial court. In the present case, it is found that the aforesaid finding of fact is not against the weight of evidence on record. Therefore, the finding is not illegal or perverse and, therefore, it cannot be interfered with in this revision application. Even the learned APP Mr Desai and Mr J G Shah, learned Advocate for the contesting respondent have also submitted that there was absolutely no material before the trial court to come to a finding that the petitioner belongs to SC or ST. Even the learned APP also supports the judgment of the trial court. In above view of the matter, there was no illegality committed by the trial court and, therefore, the judgment and order of the trial court cannot be lightly interfered with. No other point was canvassed

and, therefore, it is found that the above findings cannot be assailed on any ground and if this is not assailed and confirmed, then there is no material on record to show that the trial court has committed illegality.

7. This is a revisional jurisdiction and the powers, functions and jurisdiction of the court exercising revisional jurisdiction are very limited. Having regard to that aspect of the case and considering the findings recorded by the trial court, this is not a fit case which requires interference in this revision application.

8. For the foregoing reasons, this revision application is dismissed. Rule discharged.

7.2.2002 [D P Buch, J.]
msp